

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
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SPECIAL CIVIL APPLICATION No 2268 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 No
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MADAN PRASAD SHIKRISHNA

Versus

LABOUR COMMISSIONER OF GUJARAT

Appearance:

MR KR KOSHTI for Petitioner

Mr. Shastri for

MR DA BAMBHANIA for Respondent Nos. 1 & 2

Ms.R.M.Shaikh for

MS SUDHA R GANGWAR for Respondent No. 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 12/08/97

ORAL JUDGEMENT

The workman has filed this petition seeking initiation of appropriate criminal proceedings for breach of the Award dated 31.1.95 passed by the Labour Court at Ahmedabad. The grievance of the petitioner is that he has not been reinstated nor he has been paid backwages in terms of the Award dated 31.1.95 passed by the Labour Court, Ahmedabad in Reference (LCA) 1798 of 1984 and despite holding an Award in his favour since January 1995

he continues even in August 1997 without any relief. He, therefore, seeks the initiation of appropriate criminal proceedings against the concerned Officers of the Company - respondent No.3, namely, Kirti Textiles.

Special Civil Application No.5894 of 1997 filed by the respondent No.3 - Company challenging the validity of the Award dated 31.1.95 passed by the Labour Court, Ahmedabad in Reference (LCA) No.1798 of 1984 and the order dated 12.2.96 passed by the Labour Court, Ahmedabad in Misc. Application No.64 of 1995 in Reference (LCA) No.1798 of 1984 has been rejected today by this Court.

I find that the Award dated 31.1.95 passed by the Labour Court, Ahmedabad, as aforesaid, in favour of the present petitioner, has not been complied with by the Company - respondent No.3 although a period of more than two and half years has already expired by now from the date of the Award. The Company - respondent No.3 is, therefore, flouting an Award passed by the Labour Court and its concerned Officers are liable to be prosecuted criminally under the Industrial Law. No cause whatsoever has been shown even in these proceedings as to why the Award was not complied with and it also appears that the respondents Nos.1 and 2 have not taken any step to see that the Award is given effect to. The reply, which has been filed on behalf of the Company respondent No.3 through the affidavit dated 6.8.97 is virtually a reply to contest the Award, which cannot be the subject matter in this petition. No cause has been shown by the Company - respondent No.3 as to why they are not liable to be prosecuted for breach of the Award for a period of more than two and half years. This affidavit in reply dated 6.8.97 is, therefore, hardly an answer to the prayer of the petitioner for criminal prosecution of the concerned Officers. In this case, earlier a notice had been issued on 19.3.97 as to why this petition may not be admitted and finally disposed of. Yet nobody turned up on behalf of the respondent Company and thereupon fresh notices were issued and only thereafter when nobody appeared, Rule was issued by this Court on 18.7.97.

On the entirety of the facts of this case, I am satisfied that the concerned Officers of the Company respondent No.3 Kirti Textiles or any other persons who are liable to comply the Award on behalf of respondent No.3 - Company is liable to be prosecuted. However in absence of the appropriate details about such Officers, it is ordered that should the respondent No.3 Company and its concerned Officers or any other person, who are responsible for complying the Award, still fail to comply

with the Award within a period of one month from the date the certified copy of this order is served upon them, the respondents Nos.1 and 2 i.e. Labour Commissioner of Gujarat and the Government Labour Officer would take immediate steps to criminally prosecute such Officers or persons of the Company - respondent No.3 and the proceedings shall be initiated at the earliest possible opportunity but in no case later than 30.9.97. This Special Civil Application is allowed in the terms as aforesaid and Rule is also made absolute accordingly with no order as to costs.

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